

REMARKS

The April 15, 2008 final Office Action regarding the above-identified application has been carefully considered; and the claim amendments above together with the remarks that follow are presented in a bona fide effort to respond thereto and address all issues raised in that Action. The independent claims have been amended to more clearly distinguish the inventive subject matter over the art. For reasons discussed below, it is believed that this case is in condition for allowance.

Care has been taken to avoid entry of new matter. The independent claims have been amended to indicate that the keypad on the device includes a plurality of alpha or numeric keys and a dynamically assignable function key. The specification and drawings disclose several examples of such a keypad, see e.g. FIGS. 1a and 1b and the discussion in the paragraph beginning in line 3 of page 8 of the specification. The amended claims also recite that the key assignment area displays a function of the device associated with the selected choice, which is dynamically assigned to the function key of the keypad of the cellularly communicative device. FIGS. 5a to 8 show examples of second screen displays, each of which includes an area containing information related to the selected choice, such as a dialog input box 310 in FIG. 5a or various third level menus. Each second screen display also includes a key assignment area 210, showing functions dynamically assigned to one or more keys of the device keypad. Activation of a key causes the device to perform the currently assigned/displayed function. Attention may also be directed to the discussion of FIGS. 5a to 8 in the specification (see pages 16-20) and to the last two lines of the abstract. Hence, the claim amendments do not introduce new subject matter.

The claims previously recited display of a dynamic assignment of a device function to a key of the device keypad, as part of the displaying of the second screen on the device display in response to the user acceptance of the selected one of the choices. It is submitted that amendments above to refine the claim language on the point should not raise any issue requiring further search.

The amendments were not earlier presented because the art had not been previously cited or applied in the manner set forth in the April 15, 2008 final Office Action. In that regard, Applicants could not have anticipated and have not had any opportunity to consider or address the three-source combination proposed in the new patentability rejection.

Applicants therefore submit that entry of the claim amendments set forth above is proper at this stage of prosecution, under 37 C.F.R. § 1.116. Prompt entry of the claim amendments and favorable reconsideration of this application based on the amended set of claims presented above are respectfully requested.

Claims 46-87 stand rejected under 35 U.S.C. § 103(a) as unpatentable over US publication 2004/0051741 to Venturino in combination with an alleged admission of prior art on pages 1 and 2 of the specification of this application itself (referred to as “AAPA”) and further in combination with US patent no. 7,152,213 to Pu et al. (hereinafter Pu). This rejection is respectfully traversed.

The pending claims relate to a method, a program product (a “manufacture”) and a cellularly communicative electronic device, which provide a user interface on the device. In each claim, the device is one that includes a keypad having alpha or numeric keys and at least one dynamically assignable function key. Each independent claim recites a first screen display that includes a first level menu providing functional groupings for user selection and a second

level menu of choices for user selection from within a selected one of the functional groupings of the first level menu. Each independent claim also specifies displaying a second screen responsive to a user acceptance of the selected one of the choices. The displayed second screen includes an area containing information relating to the selected choice as well as a key assignment area. The key assignment area displays a function of the cellularly communicative device that is associated with the selected choice, that is to say selected as a result of the user's acceptance of the selected one of the choices. The key assignment area displays the function as being dynamically assigned to the function key. Each independent claim also requires that the device performs the dynamically assigned function associated with the selected choice, upon user activation of the function key during the display of the second screen.

It is respectfully submitted that the cited references do not disclose a cellularly communicative device (or method of operation or software for such a device) having the recited keypad arrangement, where the cellular device function is dynamically assigned to the function key and shown in a key assignment area on the display (as part of the second screen). Venturino does not suggest dynamic assignment of functions to one or more keys on the device with an attendant display of a currently assigned function. The discussion of prior art in the background of this application discusses function keys on a cell phone (which typically includes alphanumeric keys), but there, the functions of the function keys are static. Pu teaches dynamic assignment and display, but Pu only dynamically assigns different text (typically difference characters), not different device functions. A more detailed explanation follows.

Venturino discloses a tabbed menu arrangement for a digital camera display. The disclosed camera provides a three level menu architecture (see paragraphs 0117 to 0120). A first screen on the display includes a first level menu providing textually labeled tab icons across the

top, for a number functional groupings for user selection (see e.g. FIG. 6 and paragraph 0078). In the area below the tabs, a second level menu presents choices for user selection from within a selected one of the functional groupings of the first level menu tabs (compare for example FIGs. 6, 12 and 13). As the user navigates through the choices on the screen and highlights a particular choice, the Venturino device will display more specific menu selections under a selected second level menu option (see e.g. FIGs. 11, 15 and 16), although apparently Venturino does not switch to a second display screen to present this third menu level.

Although Venturino mentions cell phones in the background (paragraph 0002), the disclosure focuses on a digital camera type device, and the Examiner interprets Venturino as insufficient to meet claim requirements regarding providing the user interface (e.g. display and keys) on a “cellularly communicative device.” However, user interfaces having displays and keypads are well known in the cell phone industry, as discussed as prior art in the background section (e.g. pages 1 and 2) of Applicants’ own specification (cited as AAPA). Hence, the rejection includes a conclusion to the effect that it would have been obvious to one of skill in the art in view of the alleged AAPA to implement the Venturino user interface in a cellularly communicative device.

Venturino discloses use of dedicated function buttons (e.g. OK button discussed in paragraph 0020 and in paragraphs 0057 to 0062) and/or a hotkey, to select options (see e.g. paragraph 0199). The Examiner recognizes that Venturino does not suggest dynamic assignment of functions to one or more keys on the device with an attendant display of a currently assigned function as part of the second display screen (third level menu), and as a result, the first combination of Venturino and the AAPA would not provide a display of a dynamic function assignment to a key (see paragraph at the top of page 4 of the Action). Instead, the rejection

cites to Pu to allege that dynamic function assignment and attendant display would have been obvious. However, the addition of Pu would not be enough to lead to a further modification of the combination of Venturino and the AAPA to actually satisfy all of the requirements of the independent claims. Although Pu does suggest dynamic assignment and display, Pu apparently assigns text not functions. Specifically, PU suggests presentation of a standard telephone keypad on a display with the valid data entry selections dynamically assigned to the keys on the keypad (see column 2, lines 58-60). However, Pu only dynamically assigns different text (typically difference characters), not different device functions.

Hence, there is no suggestion by Venturino, the AAPA or Pu of displaying a function of the cellularly communicative device associated with the selected choice, as dynamically assigned to the function key on second screen on the display, responsive to the user acceptance of the selected one of the choices (from the second level menu part of the first display screen). The proposed combination of Venturino, the AAPA and Pu therefore does not meet the relevant requirements of any of Applicants' three different independent claims.

In addition, it is believed that the applied combination would not actually meet the "key" recitations of the claims. As outlined above, Venturino actually discloses a tabbed menu display with multiple menu levels, in which a cursor control allows the user to progress through the menus and an 'OK' key allows the user to select choices from the displayed menus. The 'OK' key retains its selection function, although different functions may be selected from the various menus. This is similar to the static "enter" or "select" function of the AAPA (see paragraph beginning on line 5 on page 2 of Applicants' specification). The function assigned to the OK key of Venturino is not dynamically changed and displayed. Hence, Venturino does not disclose a keypad having alpha or numeric keys in combination with a dynamically assignable function

key, as recited in the claims. Pu apparently discloses a device that may have a telephone keypad. However, Pu dynamically assigns text to the keys of the telephone keypad, that is to say to the alphanumeric keys themselves. Pu does not suggest inclusion of an additional dynamically assignable function key. The AAPA in the background of this application discusses function keys on a cell phone (which typically includes alphanumeric keys), but there, the functions of the function keys are static (attention again is directed to the paragraph beginning on line 5 of page 2 of Applicants' specification). As such, none of the art cited/applied in the rejection actually suggests that the cellularly communicative device comprises a keypad including both a plurality of alpha or numeric keys and a dynamically assignable function key, as required by Applicants' amended claims.

For the reasons explained above, the combination applied in the latest art rejection does not meet the claim requirements for: (1) display of a key assignment area displaying a function of the cellularly communicative device associated with the selected choice, dynamically assigned to the function key, responsive to a user acceptance of the selected one of the choices; or (2) inclusion in the keypad of a dynamically assignable function key (in addition to the alpha or numeric keys). Since the proposed combination does not meet all of the requirements of any of the independent claims, the combination does not render any of the pending claims obvious or unpatentable in the sense of 35 U.S.C. § 103(a). Hence, the rejection should be withdrawn and the claims should be patentable over the art.

Upon entry of the above claim amendments, claims 46-87 remain active in this application, all of which should be patentable over the art applied in the Action. Applicants therefore submit that all of the claims are in condition for allowance. Accordingly, this case

should now be ready to pass to issue; and Applicants respectfully request a prompt favorable reconsideration of this matter.

It is believed that this response addresses all issues raised in the April 15, 2008 Office Action. However, if any further issue should arise that may be addressed in an interview or by an Examiner's amendment, it is requested that the Examiner telephone Applicants' representative at the number shown below.

To the extent necessary, if any, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

A handwritten signature in black ink, appearing to read "Keith E. George", is written over the printed name.

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